

AMENDED IN SENATE JULY 15, 2010  
AMENDED IN SENATE JUNE 28, 2010  
AMENDED IN SENATE JUNE 16, 2010  
AMENDED IN ASSEMBLY MAY 19, 2010  
AMENDED IN ASSEMBLY MAY 3, 2010  
AMENDED IN ASSEMBLY APRIL 5, 2010  
AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2483**

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**Introduced by Assembly Member Coto**  
**(Coauthors: Assembly Members Beall, Caballero, Fong, Monning,**  
**and Torrico)**  
(Coauthor: Senator Maldonado)

February 19, 2010

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An act to amend Sections 4, 26.5, and 26.7 of, ~~and to add Section 29 to, and to repeal Section 26.6 of,~~ the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, as amended, Coto. Santa Clara Valley Water District.

(1) The Santa Clara Valley Water District Act establishes the Santa Clara Valley Water District and specifies its powers and purposes relating to water supply and flood management.

This bill would authorize the district to take actions relating to water management, water quality, and ~~reduction of environmental impacts~~ *energy and environmental benefits* in the district. The bill also would authorize the district to provide incentives *or assistance* to water retailers to implement specified water conservation measures, ~~to require owners of specified facilities and agricultural water users to implement water conservation practices and measures, and to require other related measures, as specified.~~ *The bill would authorize the district to implement other measures if the implementation of those measures is a precondition for continued delivery of imported water to the district pursuant to state or federal law.*

(2) The act requires the district to annually prepare a written report on the district's activities in the protection and augmentation of the water supplies of the district, and requires the report to include information prescribed by the act and other information the board may order. The act requires the report to include a recommendation as to whether or not a groundwater charge should be levied in any zone or zones of the district during the ensuing water year and, if a groundwater charge is recommended, a proposal of the rate or rates per acre-foot of water, as specified.

This bill would require the report to additionally include groundwater monitoring information collected by the district. The bill would revise the required groundwater charge recommendation to instead require the district to make a recommendation as to whether a groundwater charge should remain unchanged, be decreased or increased, or be newly imposed in any zone or zones of the district.

(3) The act requires the board of directors of the district (board) to hold a public hearing on the annual report; and, ~~prior to the end of the water year in which the hearing is held and based upon findings and determination from the hearing, determine whether to levy a groundwater charge in any zone or zones.~~ *The prescribes notice requirements for purposes of the public hearing.*

*This bill would repeal that public hearing requirement and the related notice requirements.*

(4) *The act requires the board to determine whether to levy a groundwater charge in any zone or zones prior to the end of the water year based upon findings and determinations from the public hearing on the annual report. The act sets forth various requirements relating to the calculation of groundwater charges, including a requirement that certain increases in rates be directly related to the reduction in the*

affected zone groundwater levels in a specified period. The act ~~requires a public hearing to be held at least 21 days before the date on which a new or adjusted groundwater charge is proposed to take effect~~ *prescribes public hearing and notice requirements for the imposition of new and adjusted groundwater charges.*

*Article XIII D of the California Constitution, which was added pursuant to the approval by the voters of Proposition 218 at the November 5, 1996, statewide general election, generally requires that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of a written notice and the holding of a public hearing. Existing provisions of the Government Code prescribe specific procedures and parameters for local jurisdictions in complying with Article XIII D of the California Constitution.*

This bill would ~~repeal the public hearing and notice requirements related to groundwater charges, and would instead authorize the board to impose or adjust a groundwater charge in any zone or zones and would specify that any groundwater charge approved by the board would remain in effect until the board determines that it should be eliminated, decreased, or increased in compliance with Article XIII D of the California Constitution and specified provisions of the Government Code.~~ This bill would revise certain requirements relating to the calculation of groundwater charges and would delete the requirement that certain increases in groundwater charge rates be directly related to the reduction in the affected zone groundwater levels. ~~The bill would require the public hearing to be held at least 45, rather than 21, days before the date on which the new or adjusted groundwater charge is proposed to take effect.~~

(4)

(5) By imposing new requirements on the district, this bill would create a state-mandated local program.

(5)

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified ~~reasons~~ *reason*.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by *Section 1* of Chapter 279 of the Statutes of 2006, is amended to read:

Sec.4. (a) The purposes of this act are to authorize the district to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County.

(b) It is the intent of the Legislature that the district work collaboratively with other appropriate entities in Santa Clara County in carrying out the purposes of this act.

(c) The Legislature finds and declares all of the following:

(1) Historically, the district's role was to secure additional water supplies to meet demand. However, there are limitations on the district's ability to acquire new water and the state has enacted water conservation goals.

(2) Authorization of demand management measures will ensure that the district has the tools and flexibility needed to address challenges to ensure a reliable and sustainable water supply future.

(d) The district may take action to do all of the following:

(1) Protect Santa Clara County from floodwater and stormwater of the district, including tidal floodwater and the floodwater and stormwater of streams that have their sources outside the district, but flow into the district.

(2) Protect from that floodwater or stormwater the public highways, life and property in the district, and the watercourses and watersheds of streams flowing within the district.

(3) Provide for the conservation and management of floodwater, stormwater, or recycled water, or other water from any sources within or outside the watershed in which the district is located for beneficial and useful purposes, including spreading, storing, retaining, and causing the waters to percolate into the soil within the district.

(4) Protect, save, store, recycle, distribute, transfer, exchange, manage, and conserve in any manner any of the waters.

(5) Increase and prevent the waste or diminution of the water supply in the district.

(6) Obtain, retain, protect, and recycle drainage, stormwater, floodwater, or treated wastewater, or other water from any sources,

1 within or outside the watershed in which the district is located for  
2 any beneficial uses within the district.

3 (7) Enhance, protect, and restore the health of streams,  
4 waterways, riparian corridors, baylands, ecosystems, and natural  
5 resources in connection with carrying out the purposes set forth  
6 in this section.

7 (8) Preserve open space in Santa Clara County and support the  
8 county park system in a manner that is consistent with carrying  
9 out the powers granted by this section.

10 (9) Integrate management of all water resources of the district,  
11 in order to improve long-term water management sustainability,  
12 provide flexibility to address the impacts of anticipated extreme  
13 hydrological events, such as droughts and floods, and respond to  
14 climate change impacts, such as reduced snowpack, changes in  
15 local precipitation patterns, and rising sea level.

16 ~~(10) Participate in the market of credits or other benefits related~~  
17 ~~to the reduction of environmental impacts or improved~~  
18 ~~comprehensive water management.~~

19 ~~(11)~~

20 (10) Take action consistent with responsibility delegated by the  
21 state to urban wholesale water suppliers pursuant to Part 2.55  
22 (commencing with Section 10608) of Division 6 of the Water  
23 Code.

24 ~~(12)~~

25 (11) Provide incentives for water conservation and otherwise  
26 promote efficient water use.

27 ~~(13)~~

28 (12) Integrate district energy and water policies and practices,  
29 in order to provide energy and environmental benefits.

30 ~~(14)~~

31 (13) Protect, restore, or improve water quality for all beneficial  
32 uses, consistent with the express authorities provided in this act.

33 ~~(15)~~

34 (14) Reduce greenhouse *gas* emissions from district operations  
35 or sources within the district.

36 (e) Nothing in this act shall be construed to authorize the district  
37 to do ~~either~~ *any* of the following:

38 (1) Impose measures on entities, other than the district, to  
39 mitigate climate ~~impacts or to change impacts, reduce greenhouse~~

1 gas emissions, or increase the production of renewable or  
2 alternative energy.

3 (2) Require or impose specific rate structures on retail water  
4 suppliers.

5 (3) *Regulate, limit, or condition the diversion and use of surface*  
6 *water, or the extraction and use of groundwater, or otherwise*  
7 *regulate, limit, or condition the exercise of water rights, except as*  
8 *expressly provided in this act.*

9 (4) *Act in conflict with legal authority exercised by any state*  
10 *agency, including, but not limited to, the State Department of*  
11 *Public Health, the State Water Resources Control Board, the San*  
12 *Francisco Bay Regional Water Quality Control Board, or the*  
13 *Public Utilities Commission.*

14 SEC. 2. Section 26.5 of the Santa Clara Valley Water District  
15 Act (Chapter 1405 of the Statutes of 1951), as amended by *Section*  
16 *1 of Chapter 794 of the Statutes of 1989*, is amended to read:

17 Sec. 26.5. (a) The district shall annually prepare a written  
18 report regarding the district's activities in the protection and  
19 augmentation of all water supplies of the district. The report shall  
20 include, among other information the board may order, all of the  
21 following:

22 (1) A financial analysis of the district's water utility system.

23 (2) Information as to the present and future water requirements  
24 of the district, the water supply available to the district, and future  
25 capital improvement and maintenance and operating requirements,  
26 and a method of financing those requirements.

27 (3) Groundwater monitoring information collected by the  
28 district.

29 (4) A recommendation as to whether or not a groundwater  
30 charge should remain unchanged, be decreased or increased, or be  
31 newly imposed, in any zone or zones of the district, and a proposal  
32 of a rate or rates per acre-foot for agricultural water and a rate or  
33 rates per acre-foot for all water other than agricultural water for  
34 the zone or zones, which rate or rates, as applied to operators who  
35 produce groundwater above a specified annual amount, may be  
36 subject to prescribed, fixed, and uniform increases in proportion  
37 to increases by that operator in groundwater production over the  
38 production of that operator for a prior base period to be specified  
39 by the board.

(b) The report shall not contain a recommendation of any increases in proportion to increased production in a zone unless based upon an analysis showing the cause of the reduction in the groundwater levels of the zone requiring the increases, with attention given to the effect of extractions of pumpers outside of, as well as within the zone, and with an evaluation of alternative measures that may feasibly be taken within the entire affected groundwater basin and of any alternative supplies of water available for that zone, including the availability of treated water supplied by the district or treated groundwater or groundwater extracted in a cleanup operation and available to the district for reuse. The report shall be consistent with any conservation and reuse plan approved by the State Water Resources Control Board. The report shall also include all of the following:

(1) The amount of groundwater produced in the proposed zone and alternative water sources.

(2) The estimated costs of recharging each zone or zones.

(3) The estimated costs of mitigating any effects of pumping.

(4) Information specifying the benefits that have been received and will be received within the zone or zones where a groundwater charge has been levied and collected, or is recommended to be levied and collected.

*SEC. 3. Section 26.6 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), as amended by Section 31.4 of Chapter 1195 of the Statutes of 1993, is repealed.*

~~Sec. 26.6. On or before the first Tuesday in April of each year the report shall be delivered to the clerk of the district board in writing. The clerk shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of the report and of the public hearing to be held on or before the fourth Tuesday in April in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding the report shall be held. The notice, among other information which the district may provide, shall contain an invitation to all operators of water-producing facilities within the district and to any person interested in the district's activities in the protection and augmentation of the water supplies of the district to call at the offices of the district to examine the report. There shall be held on or before the fourth Tuesday of April of each year, in the chambers of the board, a public hearing at which time any~~

1 operator of a water-producing facility within the district, or any  
2 person interested in the district's activities in the protection and  
3 augmentation of the water supplies of the district, may in person,  
4 or by representative, appear and submit evidence concerning the  
5 subject of the written report.

6 {Num}.

7 ~~SEC. 3.~~

8 *SEC. 4.* Section 26.7 of the Santa Clara Valley Water District  
9 Act (Chapter 1405 of the Statutes of 1951), as amended by *Section*  
10 *10* of Chapter 279 of the Statutes of 2006, is amended to read:

11 ~~Sec. 26.7. (a) (1) Based on the report produced pursuant to~~  
12 ~~subdivision (a) of Section 26.5 and the findings and determinations~~  
13 ~~from the hearing required pursuant to Section 26.6, the board may~~  
14 ~~impose or adjust a groundwater charge in any zone or zones. Upon~~  
15 ~~approval by the board, a groundwater charge shall remain in effect~~  
16 ~~until the board makes a determination that it should be eliminated,~~  
17 ~~decreased, or increased.~~

18 *26.7. (a) (1) (A) In compliance with Article XIII D of the*  
19 *California Constitution and Article 4.6 (commencing with Section*  
20 *53750) of Chapter 4 of Part 1 of Division 2 of Title 5 of the*  
21 *Government Code, the board may impose a groundwater charge*  
22 *in any zone.*

23 *(B) A groundwater charge levied pursuant to this act shall be*  
24 *deemed to be a property-related charge for water services as that*  
25 *term is used in Section 6 of Article XIII D of the California*  
26 *Constitution.*

27 *(C) Before levying a groundwater charge in any zone or zones,*  
28 *the board shall consider the annual report prepared pursuant to*  
29 *Section 26.5.*

30 (2) A groundwater charged imposed pursuant to this section  
31 shall be levied against all persons operating groundwater-producing  
32 facilities within the zone or zones where groundwater charges are  
33 imposed.

34 (3) (A) The charge shall be computed at a fixed and uniform  
35 rate or rates per acre-foot for agricultural water, and at a fixed and  
36 uniform rate or rates per acre-foot for all water other than  
37 agricultural water.

38 (B) Different rates may be established in different zones.

39 (C) The rate or rates, as applied to operators who produce  
40 groundwater above a specified annual amount, may, except in the



1 case of a person extracting groundwater in compliance with a  
2 government-ordered program of cleanup of hazardous waste  
3 contamination, be subject to prescribed, fixed, and uniform  
4 increases in proportion to increases by that operator in groundwater  
5 production over the production of that operator for a prior base  
6 period to be specified by the board, upon a finding by the board  
7 that anticipated conditions of drought and water shortage require  
8 the increases.

9 (D) The rates shall be established in accordance with a budget  
10 approved by the board pursuant to this act, or amendments or  
11 adjustments to that budget, and shall be fixed and uniform rates  
12 for agricultural water and for all water other than agricultural water,  
13 respectively, except that each rate for agricultural water shall not  
14 exceed one-fourth of the rate for all water other than agricultural  
15 water.

16 ~~(b) (1) The board may also impose or adjust a groundwater~~  
17 ~~charge, and the rate of a charge, on or before January 1 of each~~  
18 ~~water year whenever the board determines that the imposition or~~  
19 ~~adjustment of the charge is necessary.~~

20 ~~(2) The board shall prepare a supplemental report to the annual~~  
21 ~~report prepared pursuant to Section 26.5, explaining the reasons~~  
22 ~~for the imposition or adjustment of the charge. The board shall file~~  
23 ~~the supplemental report with the clerk of the board at least 45 days~~  
24 ~~before the date the new or adjusted charge is proposed to take~~  
25 ~~effect.~~

26 ~~(3) (A) The clerk shall publish in a newspaper of general~~  
27 ~~circulation published within the district, pursuant to Section 6061~~  
28 ~~of the Government Code, a notice of the receipt of the supplemental~~  
29 ~~report and a hearing to be held on the proposed imposition or~~  
30 ~~adjustment of the groundwater charge at least 31 days before the~~  
31 ~~date on which the new or adjusted charge is proposed to take effect~~  
32 ~~and at least 10 days before the date of the hearing.~~

33 ~~(B) The notice shall invite any operator of a water-producing~~  
34 ~~facility within the district and other interested parties to examine~~  
35 ~~the supplemental report prepared pursuant to paragraph (2) at the~~  
36 ~~district office.~~

37 ~~(4) (A) A public hearing shall be held at least 45 days before~~  
38 ~~the date on which the new or adjusted groundwater charge is~~  
39 ~~proposed to take effect in the chambers of the board.~~

~~(B) Any operator of a water-producing facility within the district may, in person or by means of a representative, present evidence at the hearing concerning the imposition or adjustment of the groundwater charge.~~

~~(c) A groundwater charge imposed pursuant to this section shall be in addition to any general tax or assessment levied within the district or any zone or zones thereof. Prior to imposing or increasing a property-related groundwater charge or fee, the district shall comply with the requirements of Article XIII D of the California Constitution.~~

~~(d) Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility from which the production of water is otherwise properly charged, or in the making or extension of any charge upon the records that do not affect the substantial rights of the assessee or assessessee, shall not invalidate the groundwater charge.~~

~~(b) A groundwater charge imposed pursuant to this section shall be in addition to any tax or assessment levied within the district or any zone.~~

~~SEC. 4.~~

~~SEC. 5.~~ Section 29 is added to the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), to read:

~~Sec. 29. (a) The district may provide incentives or assistance, or otherwise encourage retail water suppliers to implement urban water conservation measures that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies, including, but not limited to, water demand management measures identified pursuant to Section 10631 of the Water Code and efficient water management practices identified in Section 10608.48 of the Water Code.~~

~~(b) The district may require the owner of a non-agricultural water-producing facility that is not owned by a retail water supplier to implement conservation practices and measures, including imposing tiered rates or other water conservation measures that prevent the waste of water and promote the reasonable and efficient use and reuse of available supplies.~~

~~(c) Consistent with Part 2.8 (commencing with Section 10800) of Division 6 of the Water Code, the district may require agricultural water users to comply with efficient water management practices.~~

1     ~~(d)~~

2     **(b)** If implementation of measures, in addition to the measures  
3 in ~~subdivisions (a), (b), and (c)~~ *subdivision (a)*, is a precondition  
4 for the continued delivery of imported water to the district pursuant  
5 to state or federal law, the district shall have the authority to require  
6 those measures.

7     ~~SEC. 5.~~

8     **SEC. 6.** No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district are the result of a program for which legislative authority  
12 was requested by that local agency or school district, within the  
13 meaning of Section 17556 of the Government Code and Section  
14 6 of Article XIII B of the California Constitution.